

Dear Cooper City Zoning Board of Adjustment:

This letter is written on behalf of Len Brigham and his wife, Dr. Barbara Brigham, DDS. The Brighams currently reside at 2050 Maple Street in the Rollingwood neighborhood, a subdivision of Cooper City. Their land is currently zoned R-1 single family residential, and Dr. Brigham, a dentist specializing in geriatric dentistry, seeks a variance to allow her to operate her dental practice out of the Brigham's home.

Dr. Brigham's request for a variance should be granted because the standard for granting a variance is met. Allowing Dr. Brigham to operate a dental office in her home will not cause detriment to neighbors or nearby properties, will not substantially alter the character of the existing neighborhood, will be in harmony with the provisions & overall intent of the zoning code, and will serve the public interest. Because this standard, set out in §35D of the Cooper City Zoning Code is met, we request that the variance sought by the Brighams be granted.

(1) The variance sought by the Brighams will not create a detriment to adjacent or nearby properties.

Granting the Brigham's request for variance will not create a detriment to adjacent or nearby properties because allowing Dr. Brigham to operate her practice from her home will increase property values, and because any minor inconveniences that may be caused by granting the variance may be easily solved without cost to the community. This is further supported by the "no objection" letters from neighbors.

In connection with creating a dental office in their homes, the Brighams plan to engage in a serious remodeling of their home. Rob Zukor, owner of Cooper City Realty, and an expert in Cooper City Real Estate, considered the effects of granting the Brigham's variance. He has concluded that the extensive remodeling that will be undertaken will raise property values in the area by about 10%, but will have minimal impact on property taxes. He has also concluded that inclusion of the dental office will in no way negatively impact the community. Furthermore, David White, a seasoned police officer & resident of the Rollingwood community where the Brigham's seek their variance, believes that the inclusion of a dental office will increase property values.

In addition to increased property values, any minor inconveniences to nearby property can easily be eliminated at no cost to the community. The only concern neighbors have raised is that the dental office may lead to increased traffic, thus causing a threat to neighborhood children. This concern, however, can easily be alleviated. Local resident and sixteen year veteran of the Cooper City Police Department, and now sergeant in charge of the Traffic Control Division, David White, has stated that the threat to children comes not from the volume of traffic, but rather speed. White, who is both knowledgeable of the neighborhood & traffic patterns, has concluded that several strategically placed speed bumps in the area around the Brigham's home will eliminate the threat to children from speeding cars.

Paul Heinz, a certified traffic engineer, agrees with Sergeant White. He analyzed the traffic patterns in Rollingwood over several days, and concluded that the addition of 5 speed bumps would "control the speed of the increased traffic to the present level or below."

Thus, the addition of speed bumps will alleviate any detriment to the neighborhood. Because the Brigham's have volunteered to pay for the installation of the bumps, the community is not harmed in any way. This conclusion is supported by the fact that 7 adjoining and nearby home owners have written letters supporting the granting of this variance. Thus, because property values will increase, any detriment can be avoided without cost to community, and neighbors overwhelmingly support the variance. This variance will not create a detriment to nearby properties.

(2) This variance will not substantially alter the general character of Rollingwoods.

Rollingwoods is currently a quiet residential area, and granting the Brigham's variance will not change this. Though the Brighams are remodeling their home, the dental office may be added without adding any additions to the home. The home will appear to be an ordinary single family residence, and will therefore, visually and aesthetically, blend in with the existing character of the neighborhood.

Furthermore, having Dr. Brigham's clients visit the home will not alter the existing character of Rollingwood. The office is only open four hours a day, and is closed on weekends and holidays except in case of emergency. Dr. Brigham only has three part time employees, and sees an average of 3 patients per hour. The increase in traffic will be minimal at best, and the current home has sufficient off street parking to accommodate all patients & employees.

Thus, because the home will still blend in with the residential neighborhood, traffic increase will be minimal, and patient's cars may be parked on the property, granting this variance will not substantially alter the general character of Rollingwood.

(3) The effect of the variance is in harmony with the provisions and overall intentions of the zoning code.

Section 276 of the Cooper City Zoning Code states that the purpose of residential districts is to "provide a variety of residences and complementary uses." Granting the Brigham's variance will be in harmony with this overall purpose. As will be discussed in more detail below, Dr. Brigham, a specialist in geriatric dentistry, is asking to work from her home, located just one block from a housing development for elderly Cooper City citizens. Operating such a practice so near this housing development certainly constitutes a "complementary use." Thus, granting this variance will be in harmony with the provisions and overall intentions of the zoning code.

(4) The public interest will be served by this variance.

As stated above, Dr. Brigham, a specialist in geriatric dentistry, seeks a variance to operate her office from her home. Her home is located just one block from the site where the city is building a large, multi-family project to house Cooper City's elderly population. In approving the location for this housing development, the city council noted that all services that seniors need are located within 2.5 miles of that site. In fact, Thelma Stamp, Executive Director of Senior Alliance in Cooper City, notes that Dr. Brigham's current office, is within 2.5 miles of the housing development.

Dr. Brigham is being forced to move from current office, near the housing development, because the cost of rent has sky rocketed and, given that 20-25% of her practice is pro bono, often to elderly citizens, Dr. Brigham is unable to remain in her current location. She has considered other options, but the nearest office she can afford is nine miles from her current office & elderly clients. Without Dr.

Brigham's office in the area, the closest office specializing in geriatric dentistry is 12 miles away.

Given these facts, it is undeniable that granting this variance will further an important public interest that would otherwise go unmet. As Stamp, Executive Director of Seniors Alliance, was recently quoted as saying, "Cooper City's unreliable mass transit system makes proximity to services all the more important to seniors with limited mobility." Providing elderly citizens of Cooper City, many of whom will reside at the housing development near Dr. Brigham's office, with necessary dental service unquestionably constitutes an important public interest.

Furthermore, given that Dr. Brigham will be forced to move 9 miles away from her current location if the variance is not granted, as well as the fact that the closest geriatric dentist will be 12 miles from the senior living facility, the important public interest of providing dental services to elderly Cooper City citizens will "otherwise go unmet" if this variance is not granted. (See Anton for quote)

In light of the above facts, it is clear that Dr. Brigham is able to establish, by a preponderance of the evidence, that the variance she seeks should be granted. Because granting the variance will not harm the neighborhood, will not change its general character, is in accordance with the overall purpose of the zoning code, and because granting the variance will allow Dr. Brigham to serve an important public interest that would otherwise go unmet, the Brighams respectfully request that, in accordance with the facts above, their variance as to 2050 Maple Street, Rollingwoods, be granted.

Sincerely,

Stubbs, Friedland & Oglethorpe
Counsel for Len Brigham & Dr. Barbara Brigham, DDS

Stubbs, Friedland & Oglethorpe, P.C.
Two Sterling Professional Center
Cooper City, Franklin 33024
www. SFO small business law.com

July 26, 2005

Dear Cooper City Zoning Board of Adjustment:

I write this letter on behalf of my clients, Dr. Barbara Brigham and Len Brigham. Dr. Brigham is a local dentist here in Cooper City. The Brighams seek a variance under Cooper City Zoning Code §35 allowing Dr. Brigham to operate her dental practice, currently located at One Sterling Professional Center, out of her new home located at 2050 Maple Street in the Rollingwood neighborhood, a subdivision of Cooper City. The house at 2050 Maple Street is currently zoned R-1 single-family residential, a classification that does not permit a professional office on the property. The Brighams request that the Zoning Board of Adjustment grant a variance zoning the property to permit the commercial-business activity of a dental office under the applicable residential zoning or commercial-business district (B-1).

A party requesting a variance under §35 of the Zoning Code of Copper City must satisfy the Zoning Board of Adjustment by a preponderance of the evidence that all of the following are met:

1. the variance will not create a detriment to adjacent and nearby properties;
2. the variance will not substantially alter the general character of the area; and
3. the effect of the variance is in harmony with the provisions and the overall intent of the zoning code.

In addition, the requesting party must meet one of the following criteria:

- a. unique and particular circumstances create practical difficulties or unnecessary hardship that would be alleviated by the variance; or
- b. the public interest will be served by the variance.

In addition, element (b) requires an affirmative vote of two-thirds of the full membership of the ZBA (6 members).

The Brighams are able to meet the criteria of §35 (D) by a preponderance of the evidence, and they request your approval of a variance for their property at 2050 Maple Street.

Under the first element, the Brighams can establish that the variance sought will not create a detriment to adjacent and nearby properties. In fact, attached you will find letters written by nine neighbors of the Brighams, including all five owners of contiguous properties and of the two properties directly across Maple Street, noting they have no objections to the proposed variance. While two neighbors have raised concerns about additional traffic and the resulting increased risk to young children, Sergeant David White, a sixteen-year veteran of the Cooper City Police Department, the individual in charge of the Traffic Control Division of the CCPD, and a supporting neighbor of the Brighams notes that the increased traffic will not cause an additional risk to neighborhood children because excess speed, not traffic is the primary cause of vehicular injuries to children. The Brighams have volunteered to fund the construction of speed bumps, and Traffic Control, Inc.'s Paul Herz, a certified traffic engineer, has identified five locations to build these speed bumps. Furthermore,

Sergeant White, as a private citizen, and Ron Zukor, the owner of Cooper City Realty, both believe the Brigham's substantial remodeling of their home will increase neighborhood property values. Mr. Zukor additionally believes that the inclusion of a dental office in the Brigham home remodeling will not have a negative impact on property values, with an estimated increase in property values of 10%. Of course, Cooper City will benefit from increased property taxes. Given the proposed dental office is only 800 square feet of a more than 5,000 square foot home, and the opinions of the neighbors and experts, it is clear that the requested variance will not create a detriment to adjacent and nearby properties.

Second, the Brighams can show that the variance will not substantially alter the general character of the area. While at one time the Rollingwood neighborhood was purely residential, it has become more diverse in recent years. First, the ZBA issued a variance for the construction of a one-story church with a 40 car parking lot in 1986. That variance increased traffic in the neighborhood, but it still received approval. Second, the Board approved, in a 5-2 vote, the re-zoning of 18.5 acres north of the Brigham's property. The property had been zoned R-1 for single family homes, but it is now zoned R – R for elderly housing in a multi-family zone. Each of these decisions resulted in a physical change to the neighborhood's appearance. The Brigham's requested variance will not change the physical appearance, aside from a few extra cars parked off-street at the Brigham house, because the office is inside the home. Their house will also remain primarily a residential building. For these reasons, the Brighams meet the second requirement of §35 (D).

Third, the requested variance is also in harmony with the provisions and overall intent of the zoning code. Specifically, §276 of the Zoning Code notes that "residential districts are intended to provide a variety of residences and complementary uses that conform to the density requirements, policies, and objectives of the Cooper City Land Use Plan." The addition of a dental office in the Brigham home is a complementary use conforming with the Land Use Plan, particularly where the neighborhood, with the new senior housing development being approved, will become more dense in population. Further, outside of a few additional cars, there will be little visible effect on the Rollingwood neighborhood, yet the needs of seniors and many others will be met by Dr. Brigham's dental practice specializing in geriatric dental care. The senior development was built in the neighborhood in response to a senior housing crisis (please see the Cooper City Daily News piece enclosed), and Dr. Brigham's practice will cater to the seniors. The variance, therefore, is in harmony with the provisions and overall intent of the Zoning Code.

Finally, the Brighams must establish either of the criteria set out in §35(D)(4) of the Zoning Code. First, the public interest would most definitely be served by the variance, and the Brighams request that at least two-thirds of the Board (six members) approve this factor according to the code requirement. As noted above, Dr. Brigham is a geriatric dental specialist. She is the only such specialist in Cooper City outside of a facility twelve miles away. Her practice, if located at 2050 Maple Street, would be within close proximity to dozens of senior citizen patients. Given the City's unreliable mass transit system and the difficulty of many seniors to drive (as noted by Thelma Stamp, the Executive Director of Seniors Alliance in a March 16, 2005 Cooper City Daily News piece), the close proximity will meet the public interest in dental health. Additionally, Dr. Brigham's practice, while private in nature, is also 20 – 25% pro bono. Many low income citizens, seniors and others, receive high-quality dental care from Dr. Brigham, and given the rent increases she faces at her current location and her mobility to find an alternative site closer than 9 miles away, as well as her status as the only dentist within 3 ½ miles of this section of Cooper City, the variance will certainly serve the public interest.

As if that requirement were not enough, the Brighams can also show that unique and particular

circumstances create practical difficulties or unnecessary hardship that would be alleviated by the variance. As the Franklin Court of Appeals noted in *Anton v. Cooper City Board of Adjustment*, the difficulty and hardship must be found in the land, and they must show that, as presently zoned, it has no economically viable manner. Here, the Brigham's home is zoned R-1, for residential purpose. Under the Code, they are prevented from operating any commercial practice. This eliminates their economic benefit of operating a business.

For all of these reasons, I ask you, the Board, to approve the Brigham's request for a variance at their home at 2050 Maple Street.

Sincerely,

Jan Stubbs

7/26/05

Stubbs, Friedland & Odethorpe, P.C.
Two Sterling Professional Center
Cooper City, Franklin 33024
www.SFOsmallbusinesslaw.com

To The Members of the Cooper City Zoning Board of Adjustment.

Esteemed members of the Board, we would like to inform you that our firm has been retained by Dr. Barbara Brigham, D.D.S., and her husband, Len Brigham, to aid her in a request for a variance from the zoning of her property. Dr. Brigham currently owns the property at 2050 Maple St. Dr. Brigham would like to obtain a variance from the current R-1 zoning of this property that would allow her to operate a small dental practice in her home. To aid you in your decision in granting this variance, we have prepared for you the following arguments based upon current Franklin and Cooper City law, supplemented by evidence that is highly relative to your decision.

In order to grant a variance, Dr. Brigham must meet three important criteria according to the Cooper City Zoning Code: 1) the variance must not create a detriment to adjacent and nearby properties; 2) the variance will not substantially alter the general character of the area; and 3) the effect of the variance is in harmony with the provisions and the overall intent of the zoning code (§35(D)(1)-(4) Zoning Code). Additionally, the variance must meet one of the two following criteria:

- 1) there must be unique and peculiar circumstances that create practical difficulties or unnecessary hardship that would alleviate the variance, or
- 2) the public interest will be served by the variance.

(§35D(4)(a)-(b) Zoning Code). We are firm in our belief that the variance sought by Dr. Brigham meets these criteria.

The variance Dr. Brigham is requesting will not create a detriment to adjacent and nearby properties. Rob Zukor, the owner of Cooper City Realty, believes that Dr. Brigham's practice would raise property values in the area by around 10%. Zukor is of the mind that Dr. Brigham's dental practice would have a positive impact on neighborhood property values.

We are also prepared to present to the Board nine letters from all five contiguous properties, two of the properties directly across from Dr. Brigham, and 3 more neighborhood property owners, stating that they have no objection to the granting of the variance.

Only two of Dr. Brigham's neighbors have raised concerns over a dental practice operating out of their neighborhood. The concern these neighbors have expressed are over additional traffic that the office may cause and any risk that additional traffic may pose to neighborhood children. We are confident that we can eliminate these concerns.

Sergeant David White, a sixteen year veteran of the Cooper City Police Department and the sergeant in charge of Cooper City's Traffic Control Division, is of the opinion that the danger to neighborhood children comes in the form of excess speed and not an increased amount of traffic. Sgt.

White believes that mid-sized speed bumps strategically placed where they will do the most good will reduce the speed of vehicles and keep the neighborhood safe.

In order to further investigate Sgt. White's opinion, our firm hired Traffic Control, Inc. to analyze traffic patterns and traffic control options in the neighborhood where Dr. Brigham wishes to operate her dental practice. Traffic Control has projected that traffic will increase, but not due to Dr. Brigham's office alone. The proposed apartment complex, the new access road, and the widening of other roads will also contribute to light moderate traffic levels. Based on their projections they too believe that strategically placed medium sized speed bumps will control the speed of this increased traffic.

Dr. Brigham and her husband are aware that this will cost nearly \$4,000, but they have generously offered to pay for these new speed bumps themselves. This eliminates costs for the city.

We are also secure in our belief that Dr. Brigham's variance will not alter the general character of the area. Dr. Brigham sees a limited number of patients per week. She only works 4 hours, 5 days a week and employs a full time staff of 2 persons with a third present 2 days a week. The home has been remodeled and fits in with the appearance of the rest of the neighborhood. Traffic will be light. Based on these factors we believe Dr. Brigham's office will not alter the general character of the neighborhood.

Neither will the variance destroy the harmony and intent of the Zoning Code. Home offices are permitted according to the code if they do not involve patients, aren't more than 20% of the dwelling, do not involve a retail shipping, or storage type of business, and do not have signage. Dr. Brigham, with the exception of having patients is prepared, and will, comply with all of these. (§237 of Zoning Code).

Perhaps most importantly, Dr. Brigham's variance allowing her to practice dentistry in her own home would very much serve the public interest. As more elderly and low income families move into the areas surrounding Dr. Brigham's location her services will be in high demand. Due to a publicized lack of adequate public transportation and the limited mobility of many of the areas elderly residents, Dr. Brigham's practice fills an essential medical service.

Additionally, Dr. Brigham's practice is 20% – 25% pro bono, or free of charge, work. She specializes in geriatric dentistry and the nearest alternative is 12 miles away. Franklin courts have held that a showing of substantial need will permit a variance (Anton v CCZB, Franklin Court of Appeal, 1998). Certainly the increased number of elderly and low income families in the area immediately surrounding Dr. Brigham's property evidences a substantial need that translates into a public interest a variance for her would fill.

Although we are aware that previous grants of variance cannot definitely prove that a variance should be granted in this case, previous grants can provide some insight into whether our request meets the requirements of §35D of the Zoning Code. Anton v CCZBA, Franklin Court of Appeal, 1998. Parc 55 Development Corp was granted a variance when contiguous property owners did not object. The Rollingwood Community Church was granted a variance when it was found to blend in with the neighborhood and neighbors thought it would add to the community. Similar things can be said with regard to Dr. Brigham's request. The neighbors all agree that it would be okay for the variance to be granted, and we feel as though we can satisfy those who don't agree. Dr. Brigham's office will blend in and it will be beneficial to the community.

We would also ask that you take into consideration the impact Dr. Brigham's moving would

have on the community. The developer of the elderly home stated that the fact a dentist who treats geriatric patients was a factor in their decision to build on this site. If Dr. Brigham cannot locate her office in her home, she will have to move somewhere else, taking away that incentive to build the elderly home.

Ladies and gentlemen of the Board, we believe that we have more than met the criteria contained in the Cooper City Zoning Code. We believe that Dr. Brigham is an important and essential piece of this community. And we look forward to presenting our arguments and evidence at your earliest convenience. Please do not hesitate to call us or contact us with any questions or concerns.

Sincerely,

Applicant